

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 19 DECEMBER 2018**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Robin Currie	Councillor Roderick McCuish
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor Audrey Forrest	Councillor Richard Trail
Councillor Donald MacMillan	

**Attending:** Charles Reppke, Head of Governance and Law  
Graeme McMillan, Solicitor  
Allegra Evans-Jones, Trainee Solicitor  
David Haddow, Applicant  
Mr McCann, Applicant's Agent  
James Scott, Objector  
John Black, Objector  
Gary Owen, Objector  
John Allan, Objector

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Gordon Blair, Rory Colville, Mary-Jean Devon, George Freeman, Graham Archibald Hardie, Jean Moffat and Alastair Redman.

**2. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982: APPLICATION FOR GRANT OF PRIVATE HIRE CAR OPERATOR LICENCE (D HADDOW, ALEXANDRIA)**

The Chair welcomed everyone to the meeting and introductions were made. He then outlined the procedure that would be followed and invited the Applicant to speak in support of his application.

**APPLICANT**

The Applicant's Agent, Mr McCann, spoke on behalf of the Applicant. He referred to Section 10(3A) of the Civic Government (Scotland) Act 1982 and advised that when considering an application for a private hire car the test to apply was whether or not this would lead to the over provision of private hire car services in the area. He said that it was his understanding that there were 56 private hire car vehicles in Argyll and Bute. He advised that he was unable to find out how many of these were within Helensburgh and Lomond. He indicated that Mr Haddow had received 8,000 client enquiries in May and that this had now risen to 9,000 per month. He advised that this led him to believe that there was currently an under provision and that the licence should be granted. He said that the car which the licence was being sought for was a wheelchair accessible vehicle and that it was his understanding that there was only one which could currently be booked at the booking office. He advised that

there were 11 care homes in the area which regularly sought to hire a wheelchair accessible vehicle. He further advised that a number of these hires had to be rejected as there was only one vehicle of that type at the moment and indicated there was a need for another vehicle. He said that Mr Haddow was a fit and proper person and had no convictions. He pointed out that he already had a taxi driver's licence. He said again that there was currently no over provision of private hire cars. He said that the Act enabled the Committee to reject an application if they determined there was over provision but they did not have to do that.

Mr McCann then addressed the concerns raised by Objectors. He advised that they referred to the last survey carried out which he assumed was the Halcrow report. He said that this report was outdated and did not apply to this application. He referred to the Objectors advising that there was less demand for taxis in the Helensburgh and Lomond area and he said that they had not provided any evidence of this. He indicated that in this digital age a lot of bookings were made by telephone and through the use of mobile phone apps. He said that if customers were calling Mr Haddow's office to book a wheelchair accessible vehicle as there were no others in the area then this would not affect other businesses. Mr McCann also referred to comments made that due to new sports facilities etc at the Faslane base this meant there was no longer a need for anyone to venture out of the base. He said that no evidence had been provided to back this up. He advised that just because there were new facilities this did not mean no one would want to leave the base. He said that there was still passing trade from the base. He pointed out that of all the objections received, 31 of these were written in identical terms with only the names, addresses and dates which were handwritten being the only difference. He asked that the application be granted.

## **QUESTIONS FROM OBJECTORS**

Mr Black referred to Mr McCann advising that there was a lack of wheelchair accessible vehicles. He pointed out that Mr Haddow, as Director of TOA which had bought over Trident Taxis, had approximately 20 drivers working for Trident. He asked why one of those drivers could not drive a wheelchair accessible vehicle. Mr McCann replied that Mr Haddow had advised that there was one wheelchair accessible vehicle on the road and being driven and that due to demand he was seeking the grant of a licence for another vehicle. He advised that the car would be driven by Mr Haddow in the first instance.

Mr Black suggested that one of the other drivers would be persuaded to buy a wheelchair accessible vehicle and drive this instead. Mr McCann advised that he would not speak for anyone else.

Mr Scott sought and received confirmation from Mr McCann that he had indicated there were 56 private hire vehicles within the Argyll and Bute Council area.

## **OBJECTORS**

### Mr Scott

Mr Scott advised that he was here last month having to defend the livelihoods of taxi drivers in Helensburgh. He said that there were 160 taxis coming into Helensburgh from another area and that this was destroying the taxi drivers in Helensburgh. He listed 160 taxis coming in plus 53 taxis, 12 private hire vehicles and 3 wheelchair

accessible vehicles within the Helensburgh and Lomond area. He asked when this would all stop. He indicated that Mr Haddow was wealthier than himself and that he received an income from the 160 taxis. He said that this was a total of £61,000 coming from the taxi drivers for Mr Haddow and his colleagues. He asked when it was all going to stop and when was the Council was going to show a duty of care to the public plate drivers. He said that they were on their knees struggling to make a living. He advised that this issue was not just with this private plate. He indicated that it was his understanding that there were another 8 or 9 people standing by on the result of this plate. He advised that the taxi drivers were struggling and said that surely the Council must be saying there was enough plates to cover 2 constituencies never mind Helensburgh and that this could not go on.

### Mr Black

Mr Black indicated that everyone had been here before discussing the same issues. He said that these issues had not gone away. He referred to the 2012 Scottish Government guidelines on the role of licensing the taxi and private hire trade. He said that the Committee were charged with balancing the situation with licences. He pointed out that there would be an excess of demand if there were not enough taxis and that there would be less demand if there were too many taxis. He indicated that there was a need to ensure the right number of vehicles were available at the right time. He pointed out that within the last year the Committee had issued a further 2 private hire licences and 2 taxi plates. He said that there were roughly 50 plates and that by issuing these further 4 the income of the Helensburgh and Lomond taxi drivers was being reduced by 8%. He advised that the only other option was to increase fares but the service needed to be available to the public at a reasonable cost. He referred to the difference between a Hackney cab and a private hire vehicle in a city like Edinburgh or Glasgow. He advised that in the city the Hackney cab was designed to travel short distances and carry luggage. He said that in Helensburgh there was very little difference between taxis and private hire vehicles. He advised that in agreeing to this application today the Committee would be issuing another vehicle into the Helensburgh and Lomond area which, he said, was contrary to the needs of the drivers trying to make a decent living. He referred to the Halcrow report and said that it suggested there was unmet demand. He said that there was now less demand than there was in 2013. He said that the Council was in default of the current survey. He referred to the issuing of licences for wheelchair accessible vehicles and advised that a wheelchair accessible vehicle operating for 6 or 7 months has never had a wheelchair in it. He said that this was an independent driver with no way for anyone to contact him other than at the rank. He suggested that the Committee should reject this application as it did not meet the requirements of the taxi trade in Helensburgh and Lomond.

### **MEMBERS' QUESTIONS**

Councillor McCuish referred to Mr Haddow being refused a Taxi Car Licence on 17 September 2018 and asked what had changed since then. Mr Haddow advised that nothing had changed and that he was still getting numerous calls coming in for wheelchair accessible cars which he could not accommodate. He advised that when this type of vehicle was not available from the Helensburgh and Lomond area the Company were suggesting to the care home that they phone the Alexandria office to send a taxi which resulted in them having to pay a supplement. He said that this was grossly unfair to the Helensburgh wheelchair users. He indicated that his controllers have asked the care homes to contact the Council about this but he was

not aware if this had been made known to the Council. He advised that there was quite simply no other wheelchair accessible vehicles in the Helensburgh and Lomond zone.

Councillor McCuish referred to the comments made about the high demand for wheelchair accessible cars in the area. He asked if this application was granted would this vehicle only be used for wheelchairs or would it be available for others. Mr Haddow said that the car would be able to pick up other hires as they still needed to make a living. He advised that the wheelchair trade was very strong and he suggested that up to 40% would be taken up by wheelchair hires.

Councillor McCuish asked if it could be 100%. Mr Haddow replied that it possibly could be as high as that. He referred to people taking their elderly relatives out for trips at the weekend and that visits to Lomond shores were very popular, especially in the summer months.

Councillor McCuish referred to Mr Haddow's application being refused the last time and asked if this was due to over provision. Mr Haddow replied that he had been too late to find out. He said that at the time a lot had been laboured about the Halcrow report so thought that it would have been refused due to unmet demand. He advised that the report only dealt with taxi ranks and did not deal with the number of calls taken by the booking office. He said that the report gave a false report of demand and supply.

Councillor Kinniburgh commented that Mr Haddow had earlier referred to his vehicle as a taxi and received confirmation from Mr Haddow that this would be a private hire vehicle.

Councillor Currie sought and received confirmation from Mr Haddow that there were 20 cars which worked out of their office as Trident Taxis.

Councillor Currie asked why Mr Haddow could not replace one of these cars with a wheelchair accessible vehicle. Mr Haddow explained that they were not the Company's cars to do that. He said that the drivers owned and operated their own cars and rented radios from the company and received jobs over the data head. Mr Haddow indicated that this was the way of the world and that generally the cars were privately owned and run by the taxi drivers.

Councillor Currie said he thought that taxi firms generally owned a number of vehicles and that the taxi drivers had nothing to do with the ownership of the cars and that was why he thought it would have been easier to swap an existing car for a wheelchair accessible car. Mr Haddow confirmed that his company did not own any of the taxis and that they just provided a service and distributed the jobs and that whoever was first got the job. He said that their system was used internationally.

Councillor Forrest referred back to previous hearings where it had been said that people in Helensburgh had to phone the Alexandria Office to get a wheelchair accessible taxi. She asked Mr Haddow if he had cars that could drive in Alexandria and Argyll and Bute. Mr Haddow explained that their taxis in Alexandria would pick up in Helensburgh if a phone call was made. He said that you could only pick up outwith your area if you received a phone call through the booking office.

Councillor Douglas sought clarification on the figures Mr Scott had given. Mr Scott confirmed that there were 160 taxis available that could come into Helensburgh at any time. He said there were 53 public plates within Helensburgh and 10 to 12 private plates already available. He advised that the concerning thing for people who drove with public plates was if private plates were coming onto the system which he thought was going to happen here. He said that if 8 or 9 private plates were issued further down the line this would lead to running a private company alongside a public company. He said this was the main concern for public hire plates in Helensburgh. He said that it was okay if only one or two plates were issued but further down the line this company, which was operating from another constituency, would come in and overrule the public plates. He suggested that the Council had a duty of care to protect the public plate drivers. He said that their income had been halved and that if the Council continued going down this road they may as well hand their plates back.

Councillor Douglas asked what Mr Scott meant when he referred to public plates. Mr Scott explained that the public plates worked off the main phone system. He said that Mr Haddow wanted a private plate and that he would have the ability to work this on the public system.

Councillor Trail asked Mr Haddow how he intended operating this private plate. He asked if he would use a single number whether private or public. Mr Haddow confirmed that he operated the same system whether private or public. He said that the difference between a private and public plate was that a public plate could sit at the taxi rank but private plates had to receive a phone call.

Councillor McCuish asked Mr Haddow what it would mean to him if the licence was not granted. Mr Haddow said that the company would not be able to fulfil the wheelchair jobs that were coming through their system and that they needed another car desperately.

Councillor McCuish asked the Objectors what it would mean to their businesses if the licence was granted. Mr Scott said that it would certainly reduce their income as this plate would be operating through the public system. He said that he was sure he would be back here next month if this licence was granted as the company would come back for more plates. He referred to the sale of Trident Taxis to a firm outwith the area and the company not being offered to the Helensburgh drivers. He said that the Helensburgh drivers have been working for years and had built up a good rapport with the public and that this was under threat. Mr Black indicated that the office in Helensburgh had moved to Alexandria and that this had created a number of problems. He said that operationally both systems were together and not separate and that this involved all sorts of cross border disputes as there were different tariffs in the two areas.

## **SUMMING UP**

### **Objectors**

#### **Mr Scott**

Mr Scott said that he just felt that at this point in time there was the threat further down the line of more plates being issued. He said that there was a threat to the Helensburgh drivers if this plate was issued today.

## Mr Black

Mr Black said that it came down to the issue of supply and demand. He said that it was evident that there were too many taxis not making enough money and that granting this application would continue that trend. He said that there was no statutory requirement to have wheelchair accessible vehicles. He referred to the taxis coming from Alexandria to meet demand in Helensburgh and said that this was contrary to the law.

## Applicant

Mr McCann advised that he had noted in the Objectors' presentations a lot had been said about Mr Haddow being a Director and the number of taxis. He said that there was nothing to stop anyone else applying for another plate and that just because Mr Haddow had taken the initiative to do this he should not be penalised. He said that Mr Haddow had applied for a Taxi Car Licence in September 2018 and that this had been refused with no reason given. He said that the Halcrow report did not apply in this case as it dealt with taxis. He said that the test for private hire vehicles was over provision and that nothing had been said by the Objectors to warrant the refusal of the application. He said that the application should be granted.

When asked, both parties confirmed that they had received a fair hearing.

## **DEBATE**

Councillor Kinniburgh said that he shared the Objectors' concerns. He advised that he had heard about the previous application being refused. He said that he had not been at the meeting but he believed that it would have been refused because of unmet demand as stated in the Halcrow report. He confirmed that the Halcrow report did not apply here as it applied to taxis and that was where he had great difficulty. He said that he did not believe there was anything presented today which would mean he could refuse the licence. He advised that his own feeling was there was nothing he could put forward to make a recommendation to refuse. He said that he felt that he had no alternative but to grant the licence.

Councillor McCuish said that he did not feel a strong enough case had been made by the Applicant. He advised that he was aware of the fragile state of the taxi trade in the Helensburgh area and taking cognisance of the number of objections, he could not ignore them. He said that when the time came he would move refusal of the application. He said that he wanted to protect the trade in Helensburgh at the moment. He said that Mr Haddow was still able to meet the business of others.

Mr Reppke confirmed that the test was one of over provision for private hire cars and that if Members were minded to refuse then the Committee would need to satisfy themselves that there was an over provision of private hire vehicles in Argyll and Bute.

Councillor Douglas said that she realised that sometimes the Committee have shown discretion in balancing things out particularly when a wheelchair accessible vehicle came up regardless of what was said in the Halcrow report. She said that she was torn here. She advised that although they were looking at supply and demand of taxis and hire cars, they were also looking at meeting the needs of people. She said

that she believed there were ethical concerns or care concerns here for this Committee. She referred to fairness of opportunity across a community and whether you had an individual operating or a monopoly coming about. She asked if there was not a balance that needed to be struck here.

Mr Reppke confirmed that the Committee were required to have regard to legislation. He said there were two tests if there was a wish to refuse; whether or not someone was a fit and proper person and whether there was over provision. In legal terms there was no duty of care for a quasi-judicial Committee to determine.

Councillor Douglas asked, if it came to over provision how would the Committee know if there was over provision or not and would it be down to the number of phone calls. Mr McMillan advised that there were 56 private hire cars in Argyll and Bute and that 9 of those were registered at Helensburgh addresses. He explained that private hire vehicles were not zoned in the same way as taxis and they were entitled to operate across the whole of Argyll and Bute.

Councillor Douglas asked if any criteria was applied to private hire car licences. Mr Reppke confirmed that there were certain rules on how they operated and the main one was the ability to sit on the rank which only taxis could do. He said that private car vehicles could operate in the whole Council area but taxis were zoned. He advised that you also had to pre-book a private hire car.

Councillor Currie said that the problem here was the legislation. He questioned how the Committee could agree that there was over provision in Helensburgh if there was evidence to prove it which would mean a limit to 56 plates for the whole of Argyll and Bute. He indicated that this would mean if an application came at a later date for Colonsay it would have to be refused as the decision had already been made that there was over provision. Mr Reppke acknowledged that there were complications for large rural authorities but the test in the Act was over provision. He confirmed that at the moment private hire vehicles were licenced to operate within the whole Council area so the Committee would need to have evidence that there was over provision in Argyll and Bute. He advised that the Committee would need to set out their reasons why they were convinced of that argument from the hearing and that there were 56 plates across Argyll and Bute. He said that this has been the position since at least 1986 when, at that time, there were no computers or mobile phones. He said that at the moment the Committee needed to direct itself to this application and consider whether or not the argument had been made that there was over provision.

Councillor Taylor said that the Applicant's Agent had made it clear at the start of his presentation about over provision. He referred to the comments made by the Objectors. He advised that the Applicant had founded his case on disabled provision which, Councillor Taylor said, was something he has championed over time. He said that he could not see a way forward other than granting the licence.

Councillor McCuish said that he fully understood that hands were tied and he advised that he fully respected the advice being given. He said that the Committee would probably make a decision which was legally right but morally wrong which was the difficulty he found.

Councillor Kinniburgh said there was no evidence presented to suggest otherwise because the only real evidence the Committee had was the Halcrow report which

related to taxi operators not private hire operators. He advised that the comfort he had which, he said, was not really a comfort was that anyone could apply for a private hire plate. He said that private hire had moved so drastically away from the legislation that was in front of the Committee. He pointed out that the biggest private hire company out there was Uber. He confirmed that he fully supported what the Objectors were saying but he had nothing that gave him the power to refuse this application.

## **DECISION**

The Committee agreed to grant a Private Hire Car Operator Licence to Mr Haddow.

(Reference: Report by Head of Governance and Law, submitted)